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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/668,643

09/23/2003

Mark Trocki

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EXAMINER

GILBERT, ANDREW M

ART UNIT

PAPER NUMBER

3767

MAIL DATE

DELIVERY MODE

07/18/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/668,643	Applicant(s) TROCKI ET AL.	
	Examiner ANDREW GILBERT	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 14 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14 and 22-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/23/2009 has been entered.

Acknowledgments

2. This office action is in response to the reply filed on 11/23/2009.
3. In the reply, the applicant amended claims 1 and 14.
4. Thus, claims 1-11, 22-24 are pending for examination.

Claim Objections

1. Claim 22 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 22: the encoding ring is on either the front or back of the syringe. Claim 1 already specifies that the encoding device is on the rearward end of the syringe.

2. The Examiner notes that contrary to the "Objections" section of the Remarks filed on 11/23/2009, claim 22 is still listed as pending.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 recites "at least one attachment member disposed on the rear end or front end of the tubular body" (emphasis added). The original disclosure does not support the limitation that the attachment member may be disposed on the front end of the tubular body.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Armbruster et al (5322511). Armbruster et al discloses a syringe (1) having a body (12), a plunger (48), an attachment member (92) at a rear end, at least one rotation member (94) comprising at least one notch on the terminating edge of the rearward end (Fig 12, 16), the notch forming a discontinuous edge at the terminating end of the tubular body and

extending through the syringe way from an inside to an outside (94, Fig 12, 16; where the examiner notes that the “inside to an outside” has no reference point - i.e. inside of the syringe reservoir to an outside environment), and the terminating edge extends in an axial direction forming a continuous axial surface from the rearward end of the tubular body (90/92, Fig 16; the examiner notes, what forms the continuous axial surface of the terminating edge has not been specified and could mean an outer perimeter or inner perimeter (i.e. where 92 meets the cylindrical syringe body).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-11, 22-24 are rejected under 35 U.S.C. 103(a) as being obvious over Reilly (6956053).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention “by another”; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR

1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Reilly et al teaches a syringe for use with an injector comprising a body (600; Fig 5a-b), a plunger (50), an attachment member (inclined surface **630**) at the rear end of the body for retaining a corresponding mechanism on the injector (Fig 5a-b). The attachment member is an annular ridge (630) which is also a projection or tab member. See Fig 5a-b. Regarding claim 8, 9, see flange 630. Regarding claims 10 and 11, depending on the orientation of the powerhead of the injector, the attachment member could be moved in either an axial or a vertical direction.

Reilly et al does not teach an encoding device located on the body of the syringe. Hitchins teaches a syringe body (50) for use with an injector (20) where the syringe includes a coding ring (190,192) discontinuous with the tubular body and formed circumferentially around at least a portion of the rear end of the of the syringe body. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the known technique of an encoding ring on a syringe with the device of Reilly in order to provide an indication of the medication contained with the syringe or the size of the syringe, for example.

2.

3. Claims 1-11 and 22-24 are rejected under 35 U.S.C. 103(a) as being obvious over Rhinehart et al (US 5947935) in view of Hitchins et al (US 5,944,694).

Reilly et al teaches a syringe for use with an injector comprising a body (20; Fig 1), a plunger (50), an attachment member (inclined surface **120 and** shoulder/tab/ridge **126**) at the frontward end of the body for retaining a corresponding mechanism on the injector (133). See Fig 10/11. The attachment member is an annular ridge (126) which is also a projection or tab member. See Fig 10. Regarding claim 8, 9, see flange 132. Regarding claims 10 and 11, depending on the orientation of the powerhead of the injector, the attachment member could be moved in either an axial or a vertical direction.

Reilly et al does not teach an encoding device located on the body of the syringe. Hitchins teaches a syringe body (50) for use with an injector (20) where the syringe includes coding (190,192). 190,192 are expressly disclosed as recesses and they are provided discontinuously on the circumference of the syringe body. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the known technique of an encoding ring on a syringe with the device of Reilly in order to provide an indication of the medication contained with the syringe or the size of the syringe, for example.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW GILBERT whose telephone number is

(571)272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew M Gilbert/
Examiner, Art Unit 3767

/KEVIN C. SIRMONS/

Supervisory Patent Examiner, Art Unit 3767